

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

In re:)
Royster Thorne Harris, Jr.,) Bankruptcy Case No.: 14-80699
and wife; Patricia Rochelle Harris) Chapter 13 Case
Debtors.)

**MOTION TO LIFT AUTOMATIC STAY TO COMMENCE
CONDEMNATION ACTION**

The North Carolina Department of Transportation, an agency of the State of North Carolina (“NCDOT”), hereby moves the court for relief from the automatic stay imposed pursuant to 11 U.S.C. § 362 to permit NCDOT to commence a condemnation action to acquire certain real property for public purposes. In support of this Motion NCDOT shows the court as follows:

1. On or about June 26, 2014, the debtors filed for bankruptcy protection under Chapter 13 of the Bankruptcy Code.
2. On March 13, 2015, the NCDOT’s Right of Way Agent, Sheryl L. Crouse met with the debtor Mrs. Patricia Rochelle Harris, and reviewed with her the process of condemnation. NCDOT’s Agent made the debtors an offer, and the debtors informed the Agent they had filed for Chapter 13 bankruptcy protection with the United States Bankruptcy Court Middle District North Carolina.
3. On May 12, 2015, the NCDOT’s Agent made additional contact with the debtor, Mrs. Patricia R. Harris, to make another offer and to obtain pertinent information regarding this claim. Subsequent to this contact NCDOT ceased contact with the debtor.
4. Since May 12, 2015, all action in this matter have ceased pending lifting of the automatic stay.
5. The Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 1471. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

6. According to the land title records of Franklin County, the debtors, Royster Thorne Harris and wife, Patricia Rochelle Harris are the owners of subject property described in Deed Book 883 page 201, Franklin County Registry, which contains approximately 1.000 acres of which 0.136 acres is being acquired as Right of Way, leaving 0.864 acres remaining on the richt with access to US 401.(See Plan Sheet, which is attached hereto as Exhibit "A" and same is incorporated herein by reference.)

7. NCDOT is vested pursuant to Chapter 136 of the N.C. General Statutes with the power of eminent domain, allowing NCDOT to condemn and acquire real property for highway purposes. The N.C. Board of Transportation duly adopted a resolution determining the necessity for NCDOT's condemning the real property for public use and authorizing NCDOT to institute an action in eminent domain.

8. NCDOT wishes to continue in the North Carolina state courts the eminent domain proceeding against the debtors, Royster Thorne Harris and wife, Patricia Rochelle Harris. The condemnation action will enable NCDOT to acquire the property for the purpose of the construction of US 401 from NC 96 to SR 1103 (Highway Project R-2814C, Project No. 34506.2.FR7, Parcel 138).

9. NCDOT and the debtors, Royster Thorne Harris and wife, Patricia Rochelle Harris have not been able to negotiate the amount of just compensation required to settle this claim. The debtor's filing for bankruptcy protection precludes any further negotiations with the debtor or continuation of this action until the automatic stay has been lifted by the Court.

WHEREFORE, NCDOT requests that following the expiration of the time allowed to object to the relief sought and certification that no objection has been filed, that the court enter an order modifying the automatic stay of 11 U.S.C. § 362 as follows:

1. NCDOT shall be allowed to continue and proceed with the condemnation action in the state courts of North Carolina condemning a portion of the property for public purposes in accordance with NCDOT's powers of eminent domain under North Carolina law; and allowing NCDOT to continue to negotiate with the debtors.

2. A determination of the amount of damages, entitlement to the proceeds and all other issues relevant to the condemnation action be established in the North Carolina state courts.

3. That upon the closing of this transaction the proceeds be paid to the Trustee in Bankruptcy, for the benefit of Royster Thorne Harris, Jr., and wife, Patricia Rochelle Harris.

THIS the 22nd day of September, 2015.

s/ Hilda Burnett-Baker

Hilda Burnett-Baker
Special Deputy Attorney General
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Mail Service Center 1505
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Telephone: (919) 707-4480
N.C. State Bar No. 17232

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

In re:)
Royster Thorne Harris, Jr.,)
and wife; Patricia Rochelle Harris)
Debtors.)

Bankruptcy Case No.: 14-80699
Chapter 13 Case

NOTICE OF MOTION

NOTICE IS HEREBY GIVEN that the N.C. Department of Transportation (hereinafter "NCDOT") has filed a Motion to Lift Automatic Stay to Proceed with Condemnation Action in the above captioned case; and

FURTHER NOTICE IS HEREBY GIVEN that if you fail to respond or object in writing or otherwise plead or request a hearing in writing within twenty-one (21) days from the date of this notice, the relief requested in the motion may be granted summarily without further hearing or notice; and

FURTHER NOTICE IS HEREBY GIVEN that if a response and a request for a hearing is filed in writing within the time indicated, a hearing will be conducted on the motion and response thereto at a date, time and place to be later set by this Court and all interested parties will be notified accordingly.

THIS the 22nd day of September, 2015.

s/ Hilda Burnett-Baker
Hilda Burnett-Baker
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and wife; Patricia Rochelle Harris) **Chapter 13 Case**
Debtors.)

CERTIFICATE OF SERVICE

I, the undersigned, a Special Deputy Attorney General of the N.C. Department of Justice certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on the 22nd day of September, 2015, I served copies of the forgoing Motion to Lift Automatic Stay and Notice of Motion on the parties in the interest by depositing copies hereof in a depository under the exclusive care and custody of the United States Postal Service, postage prepaid, in an envelope addressed as follows:

I certify under the penalty of perjury that the foregoing is true and correct.

Royster Thorne Harris, Jr.
Patricia Rochelle Harris
3917 US 401 S
Louisburg, North Carolina 275

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Nationstar Mortgage LLC represented
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Dated: September 22nd, 2015.

s/ Hilda Burnett-Baker
Hilda Burnett-Baker
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EXHIBIT

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NAD 83/NSRS 2007

PROJECT REFERENCE NO.	SHEET NO.	
R-2814C	26	
ROW SHEET NO.		
ROADWAY DESIGN ENGINEER	HYDRAULIC ENGINEER	
PRELIMINARY PLANS DO NOT USE FOR CONSTRUCTION		

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MATCHLINE -L- STA 355+00 SEE SHEET 27